

Re: AOR 1975-145

NOTE: The responsive document to AOR 1975-145 is an Opinion of Counsel, not an opinion issued by the Commission, and does not constitute an Advisory Opinion. It is included in this database for archival purposes and may not be relied upon by any person.

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AOR 1975-145 issued as
OC 1975-127

OC 1975-127

Honorable Jerry M. Patterson
U. S. House of Representatives
Washington, D. C. 20515

Dear Mr. Patterson:

This letter is in response to your request of December 15, 1975, for an advisory opinion. You asked the Commission for an opinion regarding settlement of a past campaign debt by your 1974 Patterson for Congress Committee (hereinafter Committee).

The Supreme Court recently held in Buckley v. Valeo, 44 U.S.L.W. 4127 (S.C. January 30, 1976), that the Commission, as constituted, could not exercise statutory authority to issue advisory opinions. Although this part of the Court's judgment was stayed for 30 days, the Commission has decided not to issue further advisory opinions under 2 U.S.C. §437f during the stay period. Thus, this letter should be regarded as an opinion of counsel, rather than an advisory opinion.

Your letter states that your 1974 Committee has a \$1,000 outstanding debt owed to an accounting firm. No further fund-raising efforts are anticipated. Upon further inquiry, my staff determined that the firm is a partnership. Specifically, you wish to know whether forgiveness of this balance by the accounting firm would be considered a contribution in violation of any Federal statute.

If the partnership is a government contractor the cancellation or compromise of a debt owed to it may be a "contribution" of the type prohibited in 18 U.S.C. §611. However, in Advisory Opinion 1975-39 (40 FR 50162, December 31, 1975), which was based

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on AO 1975-50 (40 FR 58372, December 16, 1975) the Commission set forth conditions under which such debts could be settled without being regarded as contributions in violation of 18 U.S.C. §611. A copy of these opinions is enclosed for your information and guidance.

On the other hand, if the accounting firm is not a Federal government contractor, the settlement of the debt would not be subject to the stated criteria but would be a contribution for reporting purposes under 2 U.S.C. §434. Since the debt is with regard to a 1974 election, the settlement of the debt would not be subject to the contribution limitations of 18 U.S.C. §608(b). See Advisory Opinion 1975-82 (40 FR 57756, December 11, 1975). See generally, Advisory Opinion 1975-31 (40 FR 55596, November 28, 1975), Advisory Opinion 1975-17 (40 FR 40673, September 3, 1975) and Advisory Opinion 1975-104 (41 FR 5753, February 9, 1976) regarding contributions by partnerships. Copies of all these opinions are enclosed.

The foregoing constitutes an opinion of counsel which the Commission has noted without objection.

Sincerely yours,

Signed: John G. Murphy, Jr.

John G. Murphy, Jr.
General Counsel

Enclosures: AO 1975-39
AO 1975-50
AO 1975-82
AO 1975-31
AO 1975-17
AO 1975-104